

**A RESOLUTION AS SUBSTITUTED
BY THE PUBLIC SAFETY AND LEGAL ADMINISTRATION COMMITTEE**

A RESOLUTION AUTHORIZING THE SETTLEMENT OF ALL CLAIMS AGAINST THE CITY OF ATLANTA IN THE CASE OF *YARDUM V. CITY OF ATLANTA*, SUPERIOR COURT OF FULTON COUNTY, CIVIL ACTION FILE NO. 2004CV20096, AUTHORIZING SAID PAYMENT TO BE CHARGED TO AND PAID FROM VARIOUS FUND ACCOUNTS 1A01 (GENERAL) 59017 (PROPERTY/LIQUIDATION) T31001 (UNALLOCATED FUND-WIDE EXPENSES); AUTHORIZING THE CHIEF FINANCIAL OFFICER TO DISTRIBUTE THE SETTLEMENT AMOUNT; AND FOR OTHER PURPOSES.

WHEREAS, Ms. Ruth Yardum owns a commercial property known as 2100 Spinks Street, NW, in the City of Atlanta, on which she had a tenant named Landmark Environmental Services, Inc., which operated a soil composting or soil amendment facility; and

WHEREAS, both Ms. Yardum and Landmark filed suit against the City of Atlanta contending that the City had created or maintained a nuisance by allowing raw sewage to flood the property, and after a trial held in the Superior Court of Fulton County in February, 2003, the jury awarded damages of approximately \$4.8 million to Ms. Yardum plus \$250,000 in attorney fees and litigation expenses; and

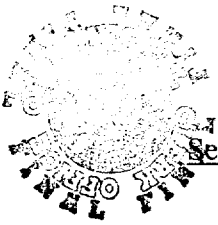
WHEREAS, the City appealed to the Court of Appeals of Georgia from the judgment entered in favor of Ms. Yardum, and on March 17, 2005, the Court of Appeals rendered its opinion affirming the award of damages to Ms. Yardum; and

WHEREAS, since the entry of the original jury award in February, 2003, interest has increased the total judgment due to a sum presently in excess of \$6.0 million; and

WHEREAS, Ms. Yardum, through her attorneys, has offered to settle for a reduced amount of \$5.0 million, on condition that the City of Atlanta not seek to have the Supreme Court of Georgia review the decision of the Court of Appeals, and has offered to take payment in two annual installments, as set out below; and

WHEREAS, in the opinion of the City Attorney the proposed settlement is in the best interest of the City; now therefore,

**THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA HEREBY
RESOLVES**



Section 1:

THAT the City Attorney is hereby authorized on behalf of the City of Atlanta to settle the case of *Ruth Yardum v. the City of Atlanta*, Civil Action File No. 2000-CV-20096, in the Superior Court of Fulton County, Georgia, for the sum of Five Million (\$ 5,000,000.00) Dollars, in full settlement of her judgment against the City of Atlanta, said sum to be paid in two installments as set forth in Sections 2 and 3 following;

Section 2:

THAT in furtherance of said settlement the Chief Financial Officer is authorized to issue the City's check (such check to be paid no later than June 15, 2005) in the sum of Two Million, Five Hundred Thousand (\$ 2,500,000.00) Dollars, payable jointly to Ruth Yardum, and her attorneys, Drew, Eckl, and Farnham, LLP, and to charge \$2,500,000.00 of such amount to 1A01 (General) 529017 (Property/Liquidation) T31001 (Unallocated Fund-wide Expenses) to constitute the first of two installment payments;

Section 3:

THAT in furtherance of said settlement the Chief Financial Officer is authorized to issue no later than one year after the effective date of this resolution the City's check in the sum of Two Million, Five Hundred Thousand (\$ 2,500,000.00) Dollars, together with interest thereon at the rate of Seven (7%) Percent per annum from the effective date of this resolution to the date of payment, payable jointly to Ruth Yardum, and her attorneys, Drew, Eckl, and Farnham, LLP; and to charge \$2,500,000.00 of such amount to 2J01 (Water & Wastewater Revenues) 529017 (Property/Liquidation) T31001 (Unallocated Fund-wide Expenses) to constitute the second and last of two installment payments;

Section 4:

THAT the City Attorney is authorized to enter into and execute on behalf of the City of Atlanta any and all documents, agreements and pleadings necessary to effectuate the settlement as authorized herein.

A true copy,

Deputy Clerk

ADOPTED by the Council
APPROVED by the Mayor

May 16, 2005
May 23, 2005

RCS# 6676
5/16/05
2:05 PM

Atlanta City Council

Regular Session

CONSENT I

CONSENT I PG(S) 3-15

ADOPT

YEAS: 13
NAYS: 0
ABSTENTIONS: 0
NOT VOTING: 2
EXCUSED: 0
ABSENT 1

Y Smith	Y Archibong	Y Moore	Y Mitchell
Y Starnes	B Fauver	Y Martin	Y Norwood
NV Young	Y Shook	Y Maddox	Y Willis
Y Winslow	Y Muller	Y Sheperd	NV Borders

CONSENT I

		05-16-05 Council Meeting
ITEMS ADOPTED ON CONSENT	ITEMS ADOPTED ON CONSENT	ITEMS ADVERSED ON CONSENT
1. 05-O-0655 2. 05-O-0656 3. 05-O-0657 4. 05-O-0658 5. 05-O-0659 6. 05-O-0762 7. 05-O-0778 8. 05-O-0781 9. 05-O-0871 10. 05-O-0874 11. 05-O-0669 12. 05-O-0684 13. 05-O-0685 14. 05-O-0850 15. 05-O-0702 16. 05-O-0703 17. 05-O-0704 18. 05-O-0845 19. 05-R-0822 20. 05-R-0823 21. 05-R-0824 22. 05-R-0827 23. 05-R-0828 24. 05-R-0834 25. 05-R-0881 26. 05-R-0821 27. 05-R-0872 28. 05-R-0830 29. 05-R-0875 30. 05-R-0838	31. 05-R-0839 32. 05-R-0677 33. 05-R-0832 34. 05-R-0833 35. 05-R-0836 36. 05-R-0837 37. 05-R-0878 38. 05-R-0818 39. 05-R-0820 40. 05-R-0826 41. 05-R-0835 42. 05-R-0785 43. 05-R-0786 44. 05-R-0787 45. 05-R-0788 46. 05-R-0789 47. 05-R-0790 48. 05-R-0791 49. 05-R-0792	50. 04-R-1789 51. 05-R-0793 52. 05-R-0795 53. 05-R-0799 54. 05-R-0800 55. 05-R-0801 56. 05-R-0802 57. 05-R-0805 58. 05-R-0806 59. 05-R-0807 60. 05-R-0810 61. 05-R-0812 62. 05-R-0814

05-R-0677
(Do Not Write Above This Line)

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BY THE PUBLIC SAFETY AND LEGAL
ADMINISTRATION COMMITTEE

A RESOLUTION AUTHORIZING THE
SETTLEMENT OF ALL CLAIMS AGAINST
THE CITY OF ATLANTA IN THE CASE OF
YARDUM V. CITY OF ATLANTA,
SUPERIOR COURT OF FULTON COUNTY,
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AUTHORIZING SAID PAYMENT TO BE
CHARGED TO AND PAID FROM VARIOUS
FUND ACCOUNTS; AUTHORIZING THE
CHIEF FINANCIAL OFFICER TO
DISTRIBUTE THE SETTLEMENT
AMOUNT; AND FOR OTHER PURPOSES.

LINDA K. DISANTIS, CITY ATTORNEY

ADOPTED BY

MAY 16 2005

SUBSTITUTE COUNCIL

- ☐ CONSENT REFER
☐ REGULAR REPORT REFER
☐ ADVERTISE & REFER
☐ 1st ADOPT 2nd READ & REFER
☐ PERSONAL PAPER REFER

Date Referred
Referred To:
Date Referred
Referred To:
Date Referred
Referred To:

First Reading

Committee _____
Date _____
Chair _____
Referred To _____

PSLA Committee

4/26/05 Date

[Signature]

Fav. Adv. (Hold (see rev. side)
Other

Members

Committee

Date

Chair

Fav. Adv. Hold (see rev. side)
Other

Members

Refer To

Refer To

PSLA Committee

5/10/05 Date

Chair

Action

Fav. Adv. Hold (see rev. side)

[Signature]

Members

[Signature]

[Signature]

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[Signature]

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FINAL COUNCIL ACTION

- ☐ 2nd ☐ 1st & 2nd ☐ 3rd
Readings
☒ Consent ☐ V Vote ☒ RC Vote

CERTIFIED

MAY 16 2005

MAYOR'S ACTION

MAYOR

[Signature]